

## **MINUTES**

### **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES**

**Wednesday, December 6, 2006**

**9:45 AM**

**Room 643, Legislative Office Building**

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Wednesday, December 6, 2006, at 9:45 A.M. in Room 643 of the Legislative Office Building. Members present were Senator Martin Nesbitt, Co-Chair; Representative Verla Insko, Co-Chair; Senators Austin Allran, Janet Cowell, Charlie Dannelly, Jim Forrester, Jeanne Lucas, Vernon Malone, and William Purcell and Representatives Bob England, Carolyn Justice, and Edd Nye. Advisory members, Senator Larry Shaw and Representatives Jean Farmer-Butterfield and Earline Parmon were present.

Kory Goldsmith, Ben Popkin, Shawn Parker, Andrea Russo, Natalie Towns and Rennie Hobby provided staff support to the meeting. Attached is the Visitor Registration Sheet that is made a part of the minutes. (See Attachment No. 1)

Senator Martin Nesbitt, Co-Chair, called the meeting to order, welcoming members and guests. He asked for a motion to approve the minutes from the November 13, 2006 meeting. Senator Malone made the motion and the minutes were approved. Senator Nesbitt announced that consultants Beth Melcher and Larry Thompson had been brought back by the committee to provide technical assistance.

Senator Nesbitt announced that the Service Gaps Study and the Funding Allocation Study would not be heard today. He said the Division informed him Friday that the reports were not ready but would be submitted to the Co-Chairs on December 15. Rather than call the committee back, Senator Nesbitt announced that the Co-Chairs and staff would receive the reports and that the reports would be presented to the LOC on Wednesday, January 3, 2007. Members said they would like to receive the reports prior to the January 3<sup>rd</sup> meeting for review and LOC staff agreed to send the reports to members as soon as they were available. Senator Nesbitt also informed the committee that he requested the consultant come to the meeting today but the Division told her not to come. He expressed his disappointment with the Department as well as with the continued delays of the reports. He suggested that it may be necessary for the committee to hire its own consultants to do the reports. Senator Nesbitt also announced that a list of potential items to be considered for LOC proposals was in the folders for the committee to take home and review. He advised members to contact staff with any comments or suggestions. In all likelihood, the draft report would be ready for the January 10<sup>th</sup> meeting, and the final report would be approved at a meeting after session starts.

Leza Wainwright apologized that the two studies were not available to the committee. She said the decision was made on Thursday to not present reports with fundamental errors. She explained that the consultant's conclusions regarding gaps in the system were based on data that was flawed. She said an external advisory team formed a year ago served as the steering committee for both studies. The Division and the external advisory team previously reviewed the drafts and recommended changes before identifying additional areas of concern on Wednesday. Ms. Wainwright emphasized the fact that once the reports were received, the Division would thoroughly review the reports before submitting them on December 15<sup>th</sup> to ensure their accuracy. In response to the consultant's absence, she explained that Mike Moseley and the Secretary felt it was critically important for the consultant to remain in Florida and get the data correct.

Representative Justice requested information stating the authority of the committee and its powers are over the Division. Kory Goldsmith, staff attorney for the LOC, responded that Chapter 120 of the General Statutes sets out the powers and duties of the committee. Those include oversight and that agencies must respond to the LOCs requests for information. A copy of the statutes was provided for members to review. (See Attachment No. 2) It was suggested that the Co-Chairs meet with the Governor and Secretary Hooker Odom to ensure this problem is not repeated in the future. Senator Nesbitt responded that a meeting would be arranged. It was also suggested that the LOC might need to meet during session.

Mr. Moseley pointed out that part of the problem faced by the Division has to do with the inadequacy of staff. When House Bill 381 passed reorganizing the Division, 42 positions were lost creating insufficient capacity. He explained that certain items were contracted out because the Division did not have the capacity to do the work themselves. He said that even though a consultant does the work, the ultimate product coming to the LOC is from the Division, and it is incumbent upon the Division that the product be accurate. Senator Nesbitt requested that Mr. Moseley provide the LOC with information regarding the specific staffing needs so the LOC can make proposals to meet those needs. Mr. Moseley indicated that he was not at liberty to make that request without first consulting with the Secretary.

Ms. Wainwright then addressed the progress of the tasks outlined in legislation during the last Short Session. (See Attachment No. 3) She first reviewed a compilation of requirements from H.B. 2077 which clarified issues around mental health reform, and S.B. 1741 which was the Appropriations Act. In H.B. 2077, she reviewed the requirements for State Plan 2006, and said that the Plan had been completed in November. She reviewed the three components of H.B. 2077 that called upon the Department to engage in rule making. She then reviewed a list of all the rules identified as either having been included in H.B. 381 that have not yet been promulgated, or that would be required from previous State Plans, or previous Communication Bulletins. The subjects were identified, with projected completion dates, and the dates the subjects would be presented to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services. She then gave a lengthy explanation of the complex and tedious process of getting a rule in place. Representative Insko explained how

appointments were made to the Commission and how important it was that the rules be accurate since the rules reflect the intent of the General Assembly.

Ms. Wainwright was asked for clarification regarding the administrative cost for the LMEs. She said that it would take \$136 million to fund the new cost model to be implemented in July of 2007. Much more money will be going into provider relations and care coordination and less money into the billing service. She said that she would provide a breakdown of the figures to the committee.

It was suggested the committee direct the Department of DHHS to provide the necessary information needed to get reform on track. Senator Nesbitt said a letter would be sent to the Secretary concerning the lack of sufficient resources and requesting her to provide the information needed to address the issues of concern.

A fire alarm sounded at which time the room was vacated. Upon the return of the committee, Senator Nesbitt said that a memo from the General Assembly police had been received requesting that they be informed of any problems experienced by the evacuation. He said that the problems would be reported and a solution would be reported at the January meeting.

Dr. Bert Bennett, Program Manager for the Best Practice Team for the Division of MHDDSAS presented a report regarding the First Level Commitment Pilot Program. (See Attachment No. 4) He said in 2003, the Legislature passed a law to develop a pilot program allowing 5 LMEs to increase the capacity in a crisis situation for persons being evaluated for an involuntary commitment. The pilot program allowed a licensed clinical social worker, a masters level psychiatric nurse, or a masters level clinical addictions specialists to make the first level commitment. In October of 2003, stakeholders were assembled to set the guidelines for the program. The stakeholders developed an evaluation plan collected data from a questionnaire. Dr. Bennett said that the report before the committee was based on data gathered during the first 3 months of this year. Findings showed there were no differences between commitment decisions made by the masters or doctoral level staff. Dr. Bennett said the program offered accessibility particularly in rural areas where physicians and psychologists were less available and emergency rooms were overburdened.

Dr. Bennett said the Division recommended expanding the program and allowed clinical social workers, psychiatric nurses, and clinical addictions specialists to provide first level commitment examinations. To be eligible to provide examinations, these professionals would be required to complete a training course that would be consistent across the State, pass an approved examination, be appropriately supervised, and obtain approval from a doctoral level staff person prior to releasing an individual from a commitment petition. If the pilot program is expanded, the Division also recommended that there be an identifier given to individuals eligible to perform first level commitment examinations so that facilities accepting involuntary commitments will know who is qualified to sign the examination form. In addition, the Division recommended that the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS)

maintain a registration database of these new professionals eligible to perform first level commitment examinations. Staff was asked to consult with the medical board regarding any potential problems that may result when having someone other than an M.D. or PhD level psychologist perform the first level commitment examinations. The committee expressed concern that there would not be enough doctors in rural areas to ensure proper supervision.

Senator Nesbitt asked Sheriff Ronald Hewett of Brunswick County to come forward to begin the public comment portion of the meeting. Sheriff Hewett addressed the mental health issues encountered in his area. He said that there were a disproportionate number of people with mental illness and substance abuse problem in jails. Funding and facility cuts have left those most vulnerable in the care of the sheriffs and the jails. He said the population in jails increased with the cuts and asked for any help the committee might be able to offer. Senator Nesbitt acknowledged that one of the biggest failures of reform was in doing away with the old system before the new system was created. He said that community capacity must be built to replace previous programs. Under the new system, the State is helping to build capacity and is funding the programs with the help of the nonprofits and providers who want to start these programs.

Sheriff Tony Perry of Camden County told members that the involuntary commitment evaluation process sometimes took 6-12 hours and could take up to 24 hours once someone is transported to the hospital. He said that it put a stain on officers and often required overtime. He suggested that those individuals being transported be given preference when being delivered for commitment.

Other matters addressed by members of the audience included:

- Concerns regarding a technical amendment to CAP/MRDD waiver limiting the number of hours a parent can be paid to provide personal care services to an adult child and prohibiting a parent who is also a guardian from being paid to provide services.
- A suggestion that parents who are providers be licensed similar to alternative family living arrangement or paid a daily rate of pay.
- The lack of trained caregivers.
- The stability of the provider network.
- The need to have county commissioners familiar with issues.
- Job security for the disabled.
- Concern for best practice management.
- Fears that provider fund balances are stretched to the limit.
- A suggestion to allow LMEs to re-establish a grant process for providers to request substance abuse funding.
- Parity in Mental Health System.
- Parity in private insurance for SA and MH coverage.
- Draft mental health law providing equal protection and upholding civil rights.
- Praise for Club Nova.
- Decriminalize mental illness.

- Speak with those in the community receiving services to see what is working and not working.

Senator Nesbitt thanked all those who addressed the committee and said that the committee was listening and concerned about all of the comments. Senator Shaw stated that the remarks today were sincere. He said that it was important to look for revenue streams that might be used for a trust fund for these issues because what is received is not enough. He suggested that the proceeds from the sale of the Dix property could go into a trust fund or perhaps a tobacco tax could create funds. He suggested that a moratorium be placed on the technical amendment until a better solution is found.

Senator Nesbitt reminded members to review the proposals, and to call staff with any suggestions. (See Attachment No. 5)

There being no further business, the meeting adjourned at 1:30 PM.

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Senator Martin Nesbitt, Co-Chair

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Representative Verla Insko, Co-Chair

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Rennie Hobby, Committee Assistant